IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3520 OF 2005

Vinay Vedranta Shivdas. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri V.D.Raut for the Applicant.

Ms.R.M.Gadhvi, A.P.P. for the Respondent-State.

CORAM : ABHAY S. OKA, J.

DATED : 24th June, 2005.

P.C.:

1. This is an application for anticipatory bail.

2. A F.I.R. has been registered against the Applicant and others for offences punishable under section 406, 420 read with section 34 of the Indian Penal Code. The Applicant at the relevant time was working as an Accounts Officer with Shree Anand Cooprative Bank Ltd., Chinchwad Pune. The allegation made in the F.I.R. is that one Shri James was having accounts in the said Bank in the names of M/s.R.R,Constructions and M/s.R.R.Trading Corporation. The said Bank has an arrangement with Cosmos Bank for clearing of the cheques and the cheques deposited by the said Bank are sent for clearance through Cosmos Bank. The case is that a cheque for the sum of Rs.7 lakhs drawn in favour of M/s.R.R.Construction was presented with the Bank. The said cheque bearing No.150903 was sent by the Bank for

clearance through Cosmos Bank. The allegation is that the Applicant cleared the said cheque and the amount was credited to the concerned account. The further allegation is that the said cheque which was returned dishonoured is missing. Further allegations is that a cheque in the sum of Rs.7 lakhs bearing No.150904 was taken subsequently from the said Shri James and without making entry in respect of the said cheque in the records of the Bank, the same was sent for clearing on 30th March 2005 by the Manager Shri Deshpande under his own signature. Subsequently entry of the said cheque in the clearing sheet was scored out.

3. The Applicant filed Criminal Application No.499 of 2005 in this court which came to be disposed of by order dated 15th April 2005. This Court in paragraph 3 and 4 of the said order observed as under:

> "3. Learned A.P.P. fairly accepts that the question of arresting the Applicant in connection with the alleged offence, will arise only after some more evidence is collected to indicate complicity of the Applicant in the commission of the crime in question.
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> 4. If it is so, this Application is disposed of with direction to the Investigating Officer

to give 72 hours advance notice to the Applicant, if he intends to arrest the Applicant in connection with the alleged offence, after some more material is collected during investigation to indicate the complicity of the Applicant."

Thus this Court noted the statement made by the learned A.P.P. that the question of arresting the Applicant will arise only after some more evidence is collected to connect the complicity of the Applicant in commission of evidence. It appears that in terms of the permission granted by this Court, 72 hours notice was issued to the Applicant on 1st July 2005.

4. A perusal of the earlier order shows that till the date of passing of the order, there was no evidence available with the prosecution to connect complicity of the Applicant and therefore, there was no question of arresting the Applicant.

5. An affidavit-in-reply is filed by the Assistant Police Inspector of Nigdi Police Station on 20th June 2005. In the said affidavit no case is made out that any material is collected against the Applicant after 15th April 2005 indicating the complicity of the Applicant warranting his custodial interrogation. The affidavit is nothing but reproduction of what is stated

in the F.I.R. A plain reading of the F.I.R. reveals that the role played by the Applicant appears to be confined to the clearance of the cheque of Rs.7 lakhs. The Investigating officer was present in the Court and the learned A.P.P. has shown the relevant documents. It appears that till today there is nothing on record to show that the cheque for the sum of Rs.7 lakhs was cleared at the instance of the Applicant.

6. After having heard the learned Counsel appearing for the parties, I find that considering the affidavit dated 21st June 2005, it appears that as of today no evidence has been collected to indicate complicity of the Applicant in the commission of the crime. From the date of passing of the earlier order of this Court till today the prosecution could not collect any material against the Applicant. There is nothing brought on record to show that the Applicant has any criminal antecedents.

7. Hence I pass the following order:

(i) In the event of the Applicant being arrested in connection with C.R.No.111 of 2005 under section 406, 420 and 34 of the Indian Penal Code registered at Nigdi Police Station, Pune, the Applicant shall be enlarged on bail subject to the Applicant furnishing P.R.Bond in the sum

of Rs.20,000/- with one or two sureties in the like amount. Till filing of the charge sheet the Applicant will attend the Investigating officer as and when called upon.

(ii) The anticipatory bail is granted subject to condition that the Applicant will cooperate with the Investigating officer and will not make any attempt to influence or pressurise the prosecution witnesses or will not make any effort to tamper with the prosecution evidence. This order will enure to the benefit of the Applicant till charge sheet is filed and thereafter the Applicant is at liberty to approach the appropriate court for appropriate relief.

(iii) The parties to act on authenticated copy of the order.

Judge.